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GENERAL COUNSEL
OF COPYRIGHT

Before the
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Washington, D.C.

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In the Matter of

:

Docket No. 99-4 CARP DPRA

DIGITAL PHONORECORD DELIVERY :

RATE ADJUSTMENT PROCEEDING

:

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**PETITION FOR DETERMINATION OF
RATES AND TERMS FOR
DIGITAL PHONORECORD DELIVERIES
SUBMITTED BY
NATIONAL MUSIC PUBLISHERS' ASSOCIATION, INC.
AND THE SONGWRITERS GUILD OF AMERICA**

This petition for determination of rates and terms for digital phonorecord deliveries ("DPDs") is submitted pursuant to 17 U.S.C. §§ 115(c)(3)(D), 801(b)(1) and 803(a)(1)&(3) by the National Music Publishers' Association, Inc. ("NMPA") and The Songwriters Guild of America ("SGA") (together "Copyright Owners").

The Copyright Owners hereby request that the Librarian of Congress convene a Copyright Arbitration Royalty Panel ("CARP") to determine a schedule of rates and terms for DPDs. Pursuant to 17 U.S.C. § 115(c)(3)(D), such rates and terms shall distinguish between (i) DPDs where the reproduction or distribution of a phonorecord is incidental to the transmission which constitutes the DPD and (ii) DPDs in general.

The Copyright Owners have a "significant interest," within the meaning of 17 U.S.C. § 803(a)(1), in the royalty rates and terms for DPDs.

Founded in 1917, NMPA is the principal trade association of music publishers in the United States. NMPA's members -- over 700 today -- own or control the overwhelming majority of musical compositions available for licensing in the United States. NMPA's wholly-owned licensing subsidiary, The Harry Fox Agency, Inc. ("HFA"), is an industry service organization that represents over 26,000 publisher-principals, which collectively own more than 2.5 million copyrighted musical works. Established in 1927, HFA serves as agent on behalf of its publisher-principals in licensing copyrighted musical compositions for reproduction and distribution as physical phonorecords (CDs, cassette tapes and phonograph records) and over the Internet as DPDs.

SGA is the nation's oldest and largest organization run exclusively by and for songwriters. SGA is an unincorporated voluntary association of approximately 5,000 songwriters throughout the United States and the estates of deceased SGA members. Among other services, SGA provides royalty collection and audit functions for its writer members, as well as licensing rights in copyrighted musical works to music users on behalf of its writer-publishers.

NMPA and SGA were the principal participants representing the interests of copyright owners in the 1980, 1987 and 1997 mechanical rate proceedings

as well as in the 1997 DPD rate proceedings. NMPA and SGA will continue to represent those interests in the instant proceeding.

Dated: December 20, 2000

Respectfully submitted,

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